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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/991,973	11/26/2001	Hye-Dong Kim	06161.0012.NPUS00	5327

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EXAMINER

SEFER, AHMED N

ART UNIT	PAPER NUMBER
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2826

DATE MAILED: 04/06/2004

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary

Application No.

09/991,973

Applicant(s)

KIM ET AL.

Examiner

A. Sefer

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-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --
Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133).
- Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 10 March 2004.
- 2a) ☒ This action is **FINAL**. 2b) ☐ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1,3-5 and 9-24 is/are pending in the application.
- 4a) Of the above claim(s) 13-24 is/are withdrawn from consideration.
- 5) ☒ Claim(s) 9-12 is/are allowed.
- 6) ☒ Claim(s) 1 and 3-5 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on _____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. §§ 119 and 120

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
a) ☐ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
2. ☐ Certified copies of the priority documents have been received in Application No. _____.
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
* See the attached detailed Office action for a list of the certified copies not received.
- 13) ☐ Acknowledgment is made of a claim for domestic priority under 35 U.S.C. § 119(e) (to a provisional application) since a specific reference was included in the first sentence of the specification or in an Application Data Sheet. 37 CFR 1.78.
a) ☐ The translation of the foreign language provisional application has been received.
- 14) ☐ Acknowledgment is made of a claim for domestic priority under 35 U.S.C. §§ 120 and/or 121 since a specific reference was included in the first sentence of the specification or in an Application Data Sheet. 37 CFR 1.78.

Attachment(s)

- 1) ☒ Notice of References Cited (PTO-892) 4) ☐ Interview Summary (PTO-413) Paper No(s). _____
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948) 5) ☐ Notice of Informal Patent Application (PTO-152)
- 3) ☐ Information Disclosure Statement(s) (PTO-1449) Paper No(s) _____ 6) ☐ Other: _____

DETAILED ACTION

Response to Arguments

1. Applicant's arguments, see pages 5 and 6, filed 3/10/2004, with respect to the rejection(s) of claim(s) 1 under 35 U.S.C. 103(a) over USPN 6,084,579 in view of US PG-Pub 2003/0171060 have been fully considered and are persuasive. Therefore, the rejection has been withdrawn. However, upon further consideration, a new ground(s) of rejection is made in view of Swirbel et al. ("Swirbel") USPN 6,091,194.

Claim Rejections - 35 USC § 103

2. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

3. Claim 1 is rejected under 35 U.S.C. 103(a) as being unpatentable over Swirbel USPN 6,091,194 in view of Urabe et al. ("Urabe") USPN 6,614,174.

Swirbel discloses in figs. 1-4 an organic EL device, comprising a thin film transistor (TFT) array substrate including a first insulating substrate 20, a TFT 24 with a conductive interface pad 46 connected thereto; and an organic EL substrate including a second insulating substrate 30, a transparent electrode 32, an organic EL layer 40 and a metal electrode 44, wherein the conductive interface pad is directly connected to the metal electrode, but does not specifically disclose and a capacitor formed on the first insulating substrate.

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Urabe et al discloses in figs. 1 and 5 an organic EL device, comprising a thin film transistor (TFT) array substrate including a capacitor Cs formed on a TFT substrate.

Therefore, it would have been obvious to one skilled in the art at the time the invention was made to incorporate Urabe's teachings with Swirbel's device since that would cause the organic electro-luminescent element to keep emitting light at the brightness in accordance with the amount of current supplied from the thin film transistor(s) as taught by Urabe.

4. Claims 3-5 are rejected under 35 U.S.C. 103(a) as being unpatentable over Swirbel in view of Urabe as applied to claim 1 above, and further in view of Codama USPN 6,091,196.

The combined references disclose the device structure as recited in the claim, but fail to specifically disclose a protection film.

Codama discloses (see col. 3, lines 25-42) a protection film that prevents external oxygen and moisture from permeating.

Therefore, it would have been obvious to one skilled in the art at the time the invention was made to incorporate Codama's teachings since that would provide the needed device protection.

As to claim 4, Codama discloses (see col. 13, lines 1-4) SiNx layer and a SiO.sub.2. As to the said protection film being formed by depositing a SiNx layer and a SiO.sub.2 layer at least once refers to a process and "product by process" claims are directed to the product per se, no matter how actually made, In re Hirao, 190 USPQ 15 at 17 (footnote 3). See also In re Brown, 173 USPQ 685 and In re Thorpe, 227 USPQ 964, 966. Therefore, the way the product was made does not carry any patentable weight as long as the claims are directed to a device.

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Further, note that the applicant has the burden of proof in such cases, as the above case law makes clear. Also see MPEP 2113.

As to claim 5, Codama discloses (see col. 10, lines 54-67 and col. 13, lines 15-30) a UV-curable agent sealant.

5. Claims 3 and 4 are rejected under 35 U.S.C. 103(a) as being unpatentable over Swirbel in view of Urabe as applied to claim 1 above, and further in view of Kuribayashi et al. USPN 6,175,345.

The combined references disclose the device structure as recited in the claim, but fail to disclose a protection film.

Kuribayashi et al disclose (see col. 9, lines 27-49) a protection film that prevents external oxygen and moisture from permeating.

Therefore, it would have been obvious to one skilled in the art at the time the invention was made to incorporate the teachings Kuribayashi et al since that would provide the needed device protection.

As to claim 4, said protection film being formed by depositing a SiNx layer and a SiO.sub.2 layer at least once refers to a process and "product by process" claims are directed to the product per se, no matter how actually made, In re Hirao, 190 USPQ 15 at 17 (footnote 3). See also In re Brown, 173 USPQ 685 and In re Thorpe, 227 USPQ 964, 966. Therefore, the way the product was made does not carry any patentable weight as long as the claims are directed to a device. Further, note that the applicant has the burden of proof in such cases, as the above case law makes clear. Also see MPEP 2113.

Allowable Subject Matter

6. Claims 9-12 are allowed.

Conclusion

7. The prior art made of record and not relied upon is considered pertinent to applicant's disclosure. Huang et al. USPN 5,929,474 disclose an Active Matrix OED Array.

8. Applicant's amendment necessitated the new ground(s) of rejection presented in this Office action. Accordingly, **THIS ACTION IS MADE FINAL**. See MPEP § 706.07(a). Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire THREE MONTHS from the mailing date of this action. In the event a first reply is filed within TWO MONTHS of the mailing date of this final action and the advisory action is not mailed until after the end of the THREE-MONTH shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the date of this final action.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to A. Sefer whose telephone number is (571) 272-1921.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Nathan Flynn can be reached on (571) 272-1915.

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Any inquiry of a general nature or relating to the status of this application or proceeding should be directed to the receptionist whose telephone number is (571) 272-2800.

ANS
March 29, 2004

NATHAN J. FLYNN
SUPERVISORY PATENT EXAMINER
TECHNOLOGY CENTER 2800

